



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
Washington, DC 20460

OFFICE OF THE  
ADMINISTRATOR

**MEMORANDUM**

SUBJECT:    Recusal Statement

FROM:       David M. Uhlmann  
              Senior Advisor to the Administrator

TO:          Michael S. Regan  
              Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This recusal statement formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have been advised by OGC/Ethics that I have a financial interest in the University of Michigan Law School from which I have taken a one-year, unpaid leave of absence. My spouse is also employed by the University of Michigan in a position for which she receives a fixed annual salary. Therefore, I may not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the **University of Michigan**, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or my participation is permitted by a regulatory exemption, including the exemption for employees on leave from institutions of higher learning allowing participation in certain

particular matters of general applicability at 5 C.F.R. § 2640.203(b). This latter exemption allows me to participate in a particular matter of general applicability, such as a rulemaking, so long as it does not have a distinct effect on the institution other than as part of a class.

#### *OBLIGATIONS UNDER EXECUTIVE ORDER 13989*

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I have additional ethics obligations with respect to the **American College of Environmental Lawyers** and the **National Conference of Bar Examiners** due to my former employment or board membership. I understand that I am prohibited from participating in any particular matters in which any of these entities is a party or represents a party for two years from the date that I joined federal service, or until after September 18, 2024.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”<sup>1</sup> Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

#### *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with the **American College of Environmental Lawyers (ACOEL)** due to my current membership. *See* 5 C.F.R. § 2635.502(a). Thus, I may not participate in a particular matter involving specific parties in which ACOEL is a party or represents a party, unless I am authorized to participate by OGC/Ethics pursuant to 5 C.F.R. § 2635.502(d).

In addition to my financial conflict of interest, I understand that I also have a “covered relationship” with the University of Michigan Law School for the period of my leave of absence and for one year thereafter. Due to my spouse’s employment, I also have a “covered relationship” with the University of Michigan for the duration of my tenure at EPA and/or my spouse’s current employment. Therefore, I may not participate in a particular matter involving specific parties in which the **University of Michigan** is a party or represents a party during the periods of my recusal, unless I am authorized to participate by OGC/Ethics pursuant to 5 C.F.R. § 2635.502(d)

#### *ATTORNEY BAR OBLIGATIONS*

In addition to the pledge restrictions involving my former employer and clients, I

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<sup>1</sup> *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

understand that I am bound by my bar rules and am obliged to protect the confidences of my former clients. I understand that I am restricted from switching sides in litigation in which I participated in or provided counsel or that is the same as or substantially related to the same specific party matter in which I previously participated personally and substantially, unless my bar provides for and I first obtain informed consent and coordinate with OGC/Ethics.

#### *DIRECTIVE AND CONCLUSION*

To avoid my participating in any of the matters from which I am recused, I will monitor my recusals assiduously and consult as needed with OGC/Ethics. I am advising others that I should not be sent or copied on substantive emails, attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement.

In the event that my circumstances change, including changes to my financial interests, my personal or business relationships, or my EPA duties, then I will consult with OGC/Ethics and update my recusal statement accordingly.

cc: Janet McCabe, Deputy Administrator  
Dan Utech, Chief of Staff  
Wesley J. Carpenter, Deputy Chief of Staff  
Jim Payne, Designated Agency Ethics Official  
Lawrence Starfield, Acting Assistant Administrator, OECA  
Justina Fugh, Director, Ethics Office